

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Plaintiff(s),

v.

LANCE GRANDBERRY, et al.,

Defendant(s).

Case No. 2:07-CR-60 JCM (VCF)

ORDER

Presently before the court is petitioner Lance Grandberry's renewal of his motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255. (ECF No. 231).

This court denied petitioner's initial motion under § 2255 on September 10, 2019. (ECF No. 204). The Ninth Circuit denied petitioner's request for a certificate of appealability on October 1, 2010. (ECF Nos. 235). During the pendency of that appeal, petitioner filed the instant renewal of his motion "to preserve the filing date" of his original motion in light of the Supreme Court's decision in *United States v. Davis*, 139 S.Ct. 2319 (2019) and the Ninth Circuit's decision in *United States v. Blackstone*, 903 F.3d 1020, 1028 (9th Cir. 2018).

In denying the request for a certificate of appealability, the Ninth Circuit held that petitioner "has not 'made a substantial showing of the denial of a constitutional right.'" (ECF No. 235) (quoting 28 U.S.C. § 2253(c)(2)). Therefore, petitioner's renewed motion regarding timeliness is moot.

Accordingly,

IT IS HEREBY ORDERED, ADJUDGED, and DECREED that petitioner's renewed motion pursuant to 28 U.S.C. § 2255 to vacate, set aside, or correct sentence (ECF No. 231) be, and the same hereby is, DENIED.

1 The clerk is directed to enter separate civil judgment denying petitioner's § 2255 motion  
2 in the matter of *Grandberry v. United States*, case number 2:20-cv-01184-JCM, and close that  
3 case.

4 DATED February 22, 2023.

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6 UNITED STATES DISTRICT JUDGE